

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

KEITH JOSEPH TRACEY,

Plaintiff,

v.

JUDGE SAXBY, *et al.*,

Defendants.

Case No. 3:21-cv-00249-SLG-KFR

ORDER RE FINAL REPORT AND RECOMMENDATION

Before the Court at Docket 1 is Plaintiff's *Notice of Intent to File Suit/Lien*. At Docket 2 the Court issued an *Order re: Deficient Filing* that instructed Plaintiff on how to file a complaint and to either pay the filing fee or file an application to waive the filing fee in order to properly commence a civil action. Plaintiff responded by filing a *Prisoner's Complaint under the Civil Rights Act 42 U.S.C. § 1983* at Docket 3. He also filed a civil cover sheet at Docket 4, and a *Prisoner's Application to Waive Prepayment of the Filing Fee* at Docket 5. The matter was referred to the Honorable Magistrate Judge Kyle F. Reardon for screening. Judge Reardon issued his Report and Recommendation at Docket 13, in which he recommended that the action should be dismissed with prejudice and that all pending motions should be denied as moot. Plaintiff filed objections to the Report and Recommendation at Docket 16.

The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1). That statute provides that a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.”¹ A court is to “make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.”² But as to those topics on which no objections are filed, “[n]either the Constitution nor [28U.S.C. § 636(b)(1)] requires a district judge to review, de novo, findings and recommendations that the parties themselves accept as correct.”³

The magistrate judge recommended that the Court dismiss the action with prejudice and deny all pending motions as moot. The Court has reviewed the Report and Recommendation and Plaintiff’s objections, which primarily take issue with the Report’s conclusion that the named Defendants are immune from this suit. On de novo review, the Court finds the objections to be without merit. Accordingly, the Court adopts the Report and Recommendation in its entirety, and IT IS ORDERED that this action is DISMISSED WITH PREJUDICE; all pending motions are DENIED AS MOOT.

¹ 28 U.S.C. § 636(b)(1).

² *Id.*

³ *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”).

The Clerk of Court is directed to enter a final judgment accordingly. IT IS FURTHER ORDERED that this dismissal shall constitute a strike pursuant to 28 U.S.C. § 1915(g).

DATED this 24th day of March, 2022, at Anchorage, Alaska.

/s/ Sharon L. Gleason
UNITED STATES DISTRICT JUDGE